

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PENSION FUND OF  
HEAT AND FROST INSULATORS LOCAL 12,  
WELFARE FUND OF HEAT AND FROST  
INSULATORS LOCAL 12, ANNUITY FUND  
OF HEAT AND FROST INSULATORS LOCAL  
12 and APPRENTICE-JOURNEYWORKER  
EDUCATIONAL FUND OF HEAT AND  
FROST INSULATORS LOCAL 12,

Plaintiffs,

v.

IDEAL CORE SOLUTIONS NY CORP.,

Defendant.

**MEMORANDUM & ORDER**  
17-CV-4147 (MKB) (VMS)

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MARGO K. BRODIE, United States District Judge:

Plaintiffs Trustees of the Pension Fund of Heat and Frost Insulators Local 12, Welfare Fund of Heat and Frost Insulators Local 12, Annuity Fund of Heat and Frost Insulators Local 12 and Apprentice-Journeyworker Educational Fund of Heat and Frost Insulators Local 12 commenced the above-captioned action against Defendant Ideal Core Solutions NY Corp. on July 13, 2017. (Compl., Docket Entry No. 1.) Plaintiffs seek to recover \$5773.88 in delinquent fringe benefit contributions, a bounced check fee in the amount of \$100.00, liquidated damages, attorneys' fees and costs, and interest under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* and the Labor Management Relations Act, 29 U.S.C. §§ 141 *et seq.* (Compl. 4–7.)<sup>1</sup> Plaintiffs served the Summons and Complaint on Defendant. (Summons

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<sup>1</sup> Because the Complaint is not consecutively paginated, the Court refers to the page numbers assigned by the Electronic Case Filing (“ECF”) system.

Returned Executed, Docket Entry No. 6.) After Defendant failed to answer the Summons and Complaint, Plaintiffs moved for entry of default on August 14, 2017. (Request for Certificate of Default, Docket Entry No. 7). The Clerk of Court entered a default against Defendant on August 14, 2017, (Clerk's Entry of Default, Docket Entry No. 9), and on August 28, 2017, Plaintiffs moved for a default judgment, (Pl. Mot. for Default J., Docket Entry No. 10). On August 29, 2017, the Court referred the motion to Magistrate Judge Vera M. Scanlon for a report and recommendation. (Order dated Aug. 29, 2017.) By report and recommendation dated December 4, 2017 ("R&R"), Judge Scanlon recommended that the Court grant Plaintiffs' motion for default judgment and award Plaintiffs \$5873.88 in compensatory damages, \$288.69 in liquidated damages, \$3292.40 in attorneys' fees and costs, \$2414.60 in interest through August 25, 2017, and interest at a rate of \$2.775 per day thereafter through the entry of judgment. (R&R 1–2, Docket Entry No. 18.) No party has objected to the R&R.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate

review of a decision in a magistrate judge's report and recommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

Judge Scanlon recommended that the Court award Plaintiffs \$5773.88 for delinquent fringe benefits contributions, \$100 for a bounced check penalty, \$288.69 in liquidated damages, \$3292.40 in attorneys' fees and costs, \$2414.60 in interest through August 25, 2017, and interest at a rate of \$2.775 per day thereafter through the entry of judgment. (R&R 5–11.) This amount totals \$11,869.57, excluding any interest accrued after August 25, 2017.<sup>2</sup>

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts the R&R pursuant to 28 U.S.C. § 636(b)(1). The Court grants Plaintiffs' motion for default judgment against Defendant Ideal Core Solutions NY Corp. The Clerk of Court is directed to enter judgment in favor of Plaintiffs against Defendant in the amount of \$11,869.57 plus interest in the amount of \$2.775 per day from August 26, 2017 through the date of entry of judgment.

SO ORDERED:

s/ MKB  
MARGO K. BRODIE  
United States District Judge

Dated: December 27, 2017  
Brooklyn, New York

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<sup>2</sup> The R&R included an error in listing the total amount as \$11,769.57. (*See* R&R 2, 11.)